

No. 4257

**ITALY
and
SWITZERLAND**

**Convention (with Supplementary Protocol) concerning the
regulation of Lake Lugano. Signed at Lugano, on
17 September 1955**

Official text: Italian.

Registered by Italy on 25 March 1958.

**ITALIE
et
SUISSE**

**Convention (avec Protocole additionnel) au sujet de la ré-
gularisation du lac de Lugano. Signée à Lugano, le
17 septembre 1955**

Texte officiel italien.

Enregistrée par l'Italie le 25 mars 1958.

[TRANSLATION — TRADUCTION]

No. 4257. CONVENTION¹ BETWEEN ITALY AND SWITZERLAND CONCERNING THE REGULATION OF LAKE LUGANO. SIGNED AT LUGANO, ON 17 SEPTEMBER 1955

The President of the Italian Republic and the Swiss Federal Council,

Having regard to the fact that flood waters from Lake Lugano periodically cause substantial damage in the riparian areas, and desirous of protecting such areas from further flooding so far as possible and of better controlling the level of the lake, have resolved to conclude a convention and have appointed as their plenipotentiaries :

The President of the Italian Republic :

Mr. Pietro Frosini, President of Section of the High Council of Public Works ;

The Swiss Federal Council :

Mr. Nello Celio, Councillor of State, Head of the Department of Public Works of the Canton of Ticino,

who, having exchanged their full powers, found in good and due form, have agreed on the following provisions :

Article I

The High Contracting Parties agree to proceed with the regulation of Lake Lugano in accordance with the plan of September 1951 and the control regulations of August 1953, both submitted by the Federal Water Service at Berne.

Article II

1. The regulation works shall comprise :
 - (a) Correction of the Lavena narrows ;
 - (b) The control dam at La Rocchetta ;
 - (c) Correction of the Tresa between Ponte-Tresa and Madonnone.
2. The said works shall be started within two years from the date of entry into force of this Convention.

¹ Came into force on 15 February 1958, as from the date of the exchange of the instruments of ratification at Rome, in accordance with article XIII.

Article III

1. The High Contracting Parties agree to recognize the regulation of Lake Lugano as a work of public interest. Each of the two Governments shall therefore accord with respect to its own territory the right to expropriate such land as may be necessary for the execution, operation and maintenance of the works and also any rights which may conflict therewith.

2. Land in the public domain may be occupied and used free of charge so far as may be necessary for the execution, operation and maintenance of the works.

Article IV

1. Subject to the exercise of the powers of the Mixed Supervisory Commission established under article VI of this Convention, the Canton of Ticino shall be responsible for executing the works. The Council of State of the said Canton shall appoint managerial staff for the works, make arrangements, in consultation with the Italian authorities, to publish the plans in accordance with the provisions in force in the two countries, and award contracts.

2. The High Contracting Parties undertake to make every effort to facilitate the execution of the regulation works, in particular by granting the following advantages :

- (a) The management shall enjoy the support of the competent administrative authorities of both countries ;
- (b) Personnel employed on the works shall enjoy freedom of movement on the banks of the Lavena narrows and of the Tresa. Such personnel shall, however, remain subject to all necessary measures of police and customs control ;
- (c) The two Governments shall exempt materials intended for the execution and maintenance of the works from customs duties, taxes and import and export licensing ; such materials shall, however, be declared at the competent customs house on every occasion.

Exemption shall be granted on production of a certificate issued by the Italian Ministry of Public Works for the Swiss customs and by the Department of Public Works of the Canton of Ticino for the Italian customs declaring that the material is intended solely for use in the execution and maintenance of the works provided for in this Convention.

Article V

The total cost of the works referred to in article II of this Convention, which is estimated at 4 million Swiss francs, shall be borne wholly by Switzerland. Italy,

for its part, shall bear the total cost of protecting the banks of the Tresa in Italian territory downstream from the correction provided for in article II.

Article VI

1. The two Governments shall establish a Supervisory Commission of six members, three of whom shall be appointed by the Government of the Italian Republic and three by the Swiss Federal Council. Each Contracting Government shall pay the expenses of the members it appoints.

2. While the works are under construction, the Commission shall be responsible for approving the programmes of work submitted to it by the Council of State of the Canton of Ticino, supervising the execution of the works, deciding upon any necessary modification of the project, and rendering to the two Governments periodic reports on the progress of work and on compliance with the time-schedules.

3. After the works have been inspected, the Commission shall be empowered to examine and resolve any question concerning the application of the control regulations, the operation of the dam and the maintenance and renewal of the works. It shall supervise the execution of its decisions and shall submit to the two Governments for approval such amendments to the control regulations as it may deem desirable.

4. The Commission shall take its decisions by unanimous vote and shall adopt its own rules of procedure. Should it fail to reach a unanimous decision, the dispute shall be referred to the Directors of the Institutes of Hydraulics of the Zurich and Milan Polytechnics, whose decision shall be binding on the parties.

5. Should the said two experts fail to agree they shall proceed to appoint an arbitrator who shall not be a citizen of either country and whose decision shall be final.

Article VII

1. The inspection of the completed works shall be jointly entrusted to two experts appointed by the Italian Ministry of Public Works and the Federal Department of Posts and Railways respectively.

2. The certificate of inspection shall be subject to approval by the said State authorities.

Article VIII

1. Switzerland undertakes to operate the dam and to comply with the control regulations and with such amendments as may be made thereto under article VI, paragraph 3, of this Convention.

2. The cost of operating the dam shall be borne by Switzerland.

3. The persons employed in such operation shall enjoy freedom of access to the Italian bank in the vicinity of the dam. The said persons shall, however, remain subject to the necessary measures of police and customs control.

Article IX

1. The cost of maintaining and renewing the control dam shall be borne wholly by Switzerland.

2. Italy and Switzerland shall maintain at their own expense the channel and banks of the Lavena narrows and of the Tresa in their respective territories. Both countries undertake to make arrangements to prevent any subsidence of the banks or alteration of the channel which might interfere with the regulation of the lake. Should any such subsidence or alteration nevertheless take place, the necessary corrective measures shall be taken without delay. The Supervisory Commission shall issue regulations governing the execution of any maintenance works affecting both Swiss and Italian territory.

Article X

1. Within its own territory each Government shall ensure that, in the event of the construction or alteration of any civil engineering works such as roads, fixed fishery or irrigation installations, bridges, buildings, hydraulic works etc. on the Lavena narrows or the international reaches of the Tresa, the necessary precautions are taken to prevent any obstruction of or interference with the regulation of the lake or any damage to the bank belonging to the other State.

2. To this end, all plans shall be submitted to the competent authorities, which shall consult the Supervisory Commission.

Article XI

In the event of any dispute concerning the interpretation or application of this Convention which cannot be settled by direct negotiation, such dispute may, at the request of either Government, be submitted to the International Court of Justice.

Article XII

This Convention supersedes all contrary provisions of previous agreements concluded between the two States.

Article XIII

This Convention shall be ratified and the instruments of ratification shall be exchanged at Rome.

It shall enter into force on the date of the exchange of the instruments of ratification.

IN WITNESS WHEREOF the plenipotentiaries of the two States have signed this Convention.

DONE at Lugano, on 17 September 1955, in duplicate in the Italian language.

Pietro FROSINI

CELIO

ADDITIONAL PROTOCOL TO THE CONVENTION OF 17 SEPTEMBER 1955¹ BETWEEN ITALY AND SWITZERLAND CONCERNING THE REGULATION OF LAKE LUGANO

It is stipulated that the plan and the control regulations referred to in article I of the Convention¹ are those transmitted to the Italian delegation as stated in the record of the meeting held at Milan on 11 and 12 December 1953.

Pietro FROSINI

CELIO

¹ See p. 218 of this volume.